

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>ATSCO HOLDINGS CORP. ET AL.,</b>	)	<b>CASE NO.1:15CV1586</b>
	)	
<b>Plaintiff,</b>	)	<b>JUDGE CHRISTOPHER A. BOYKO</b>
	)	
<b>Vs.</b>	)	
	)	
<b>AIR TOOL SERVICE CO. ET AL.,</b>	)	<b>ORDER</b>
	)	
<b>Defendant.</b>	)	

**CHRISTOPHER A. BOYKO, J:**

On July 20, 2017, the Court held a Final Pre-trial in the above-captioned case. At the Final Pre-trial, Defendants argued Plaintiffs failed to provide timely notice of claims under the express terms of the Asset Purchase Agreement. Plaintiffs acknowledged that the notice was not submitted within the time frame agreed to by the parties in the Asset Purchase Agreement. According to Defendants, this failure to timely submit a notice of a claim was a condition precedent to filing an action in court and precludes Plaintiffs from asserting such claims in the above-captioned case. Plaintiffs requested an opportunity to brief the issue prior to trial which is presently set for July 31, 2017.

Having reviewed the trial briefs and after considering the arguments made at the Final Pre-trial, the Court finds it must first determine the issue of notice prior to trial. Because trial

is set for July 31, 2017, the Court continues the trial date in order to allow sufficient time for the parties to brief the issue and for the Court to issue a ruling. Therefore, the Court continues the trial in this matter and orders the parties to brief the issue of notice under the Indemnification provision of the Asset Purchase Agreement. Defendants shall file their brief no later than August 4, 2017. Plaintiffs shall file their responsive brief no later than August 18, 2017 and Defendants shall file their reply no later than August 25, 2017. The Court will rule and set a new trial date, if needed, thereafter.

IT IS SO ORDERED.

/s/Christopher A. Boyko  
CHRISTOPHER A. BOYKO  
United States District Judge